

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's Own Motion into the Operations and Practices of the Conlin-Strawberry Water Co. Inc. (U-177-W), and its Owner/Operator, Danny T. Conlin; Notice of Opportunity for Hearing; and Order to Show Cause Why the Commission Should Not Petition the Superior Court for a Receiver to Assume Possession and Operation of the Conlin-Strawberry Water Co. Inc. pursuant to the California Public Utilities Code Section 855.

Investigation 03-10-038
(Filed October 16, 2003)

**ADMINISTRATIVE LAW JUDGE'S RULING
FOLLOWING LAW AND MOTION HEARING**

A law and motion hearing was held on March 30, 2004, to address several pending discovery motions in this proceeding. These motions included the Respondents' Motion to Quash Subpoena of James Pingree (Mar. 22, 2004) and the Water Division's Motion to Convene One Day of Hearing (Mar. 18, 2004). By stipulation of the parties, Respondents' Motion to Quash Subpoena of Danny Conlin (Mar. 26, 2004) was also heard. Cleveland Lee appeared for the Water Division and Tom MacBride appeared for the respondents.

IT IS RULED as follows:

1. As to documents requested in Respondents' Motion to Quash Subpoena of James Pingree:
 - a. The request concerning dates, hours, and type of work performed at the utility (Declaration item 3(c)) is vague as a document request. Documents need

not be supplied by Pingree. The Water Division may question him on these topics upon deposition.

b. Records concerning his water quality certifications must be provided to the extent they are in his possession.

c. The Water Division may question him on his employment, but the Water Division shall review employment records provided by the company. Any insufficiencies may be raised in a motion to compel against the company.

2. As to documents requested in Respondents' Motion to Quash Subpoena of Danny Conlin:

a. Conlin may be questioned about the nature of the excavation and logging businesses, dates of operation, and locations and telephone numbers (Declaration items 3(b)(i)(1)-(3)). No additional documentation on these subjects is required at the moment since the request dates to 1986, which is burdensome.

b. As to information about employees and equipment in the excavation and logging businesses, Conlin will prepare in advance of his deposition a list of present and past employees of these businesses and a list of major items of equipment in these businesses (based on present recollection) (Declaration items 3(b)(i)(4)-(7)). He may be examined on these topics during his deposition.

c. Conlin shall provide the name, address, and account numbers for banks used previously or now used for the excavation and logging businesses.

d. As to information about billings to other properties (Declaration item 3(b)(ii)) and employment information for company employees and Danny Conlin (Declaration item 3(c)), the Water Division shall review information previously provided. Any insufficiencies may be raised in a motion to compel against the company.

e. As to other business items (Declaration 3(d)(i)-(iv)), Conlin shall bring any documents in his possession concerning these subjects to his deposition and may be questioned on these subjects.

3. As to the Motion to Convene One Day of Hearing, it is denied; but the deposition of Evelyn Olson will be held at 10:00 a.m. on Friday, April 16, 2004, in San Francisco. The assigned ALJ will attend but not preside. Any evidentiary questions may be raised and reserved during the deposition. The Water Division will subpoena Ms. Olson to secure her attendance.

4. The ALJ took under advisement the question of whether state and federal tax returns are discoverable in these proceedings. The California Supreme Court, in *Schnabel v. Superior Court*, 5 Cal. 4th 704 (1993), discusses the statutory privilege and three situations where it is waived or does not apply. *Id.* at 721. This issue should be decided after further briefing, perhaps on a motion to compel, so that both parties may more fully discuss the scope of the privilege and its applicability to this proceeding.

Dated April 5, 2004, at San Francisco, California.

/s/ STEVEN KOTZ for
John Thorson
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Following Law and Motion Hearing on all parties of record in this proceeding or their attorneys of record. In addition, service was also performed by electronic mail.

Dated April 5, 2004, at San Francisco, California.

/s/ TERESITA C. GALLARDO
Teresita C. Gallardo

N O T I C E

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